

ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

JUL 7 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 00-79
Table of Allotments,)	RM-9802
FM Broadcast Stations)	
(Jackson and Salyersville, Kentucky))	

**COMMENTS IN OPPOSITION TO PROPOSED
RULE MAKING**

Morgan County Industries, Inc., licensee of broadcast stations WLKS AM/FM West Liberty, Kentucky and WCBJ (FM), Campton, Kentucky, by and through its undersigned counsel, files the following Comments in opposition to the above-captioned proposed Rule Making.

1. On May 16, 2000, the FCC released a "Notice of Proposed Rule Making" (hereinafter "NPRM") in the above-captioned proceeding, proposing the following amendments to the FM Table of Allotments, Section 73.202(b) of the FCC Rules, for the communities listed below, as follows:

<u>City</u>	<u>Channel Number</u>	
	<u>Present</u>	<u>Proposed</u>
Jackson, Kentucky	293A	247C2
Salyersville, Kentucky	247C3	293C3

2. The FCC issued this NPRM in response to a Petition For Rule Making, filed, jointly, on behalf of the licensees of Station WRLV-FM in Salyersville, Kentucky and Station WJSN(FM) in Jackson, Kentucky, and in its NPRM it is proposed to modify the licenses of those stations to

upgrade Station WJSN(FM) from 293A to 247 C2 and simultaneously substitute Channel 293C3 for Channel 247C3 for WRLV-FM.

3. In proposing this exchange of Channels, the FCC noted, at paragraph 3 of in its above-referenced NPRM, that in order for Channel 247C2 to be allotted to Jackson, Kentucky, in compliance with the FCC's minimum distance separation requirements, the proposed site for Channel 247C2 would have to be located 13.1 kilometers (8.2 miles) north of Station WJSN(FM)'s existing site in Jackson. That proposed site is located at co-ordinates NL 37-40-19; WL 83-24-21. However, as discussed, infra, at that proposed site, there would not be coverage to the community of Jackson, Kentucky, with the minimum signal of 3.16 mv/m, required by Section 73.315 of the FCC's Rules and Regulations, due to severe shadowing.

4. Attached hereto as Appendix A, and incorporated herein, by reference, is an Engineering Statement of Cohen Dippell and Everist, P.C., demonstrating that 3.16 mv/m coverage to Jackson cannot be achieved due to such shadowing. That Engineering Statement speaks for itself and need not be summarized by the undersigned, except to state that it establishes that there would be shadowing to ninety (90) percent of the community of Jackson, Kentucky, in gross violation of FCC Rule 73.315. Therefore, it must be concluded that the switch of Channels proposed in this proceeding cannot be achieved consistent with FCC Rules.

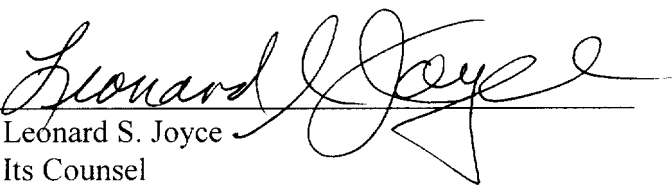
5. Morgan County Industries, Inc. has standing to file this opposition. Its Station WCBJ(FM), licensed to Campton, Kentucky, and to a lesser extent, its Stations WLKS AM/FM, licensed to West Liberty, Kentucky, all compete with Station WJSN(FM)'s Class A operation for both audience and advertising revenues. Campton, Kentucky is approximately 25 north of Jackson, Kentucky, while West Liberty, Kentucky, is approximately 40 miles north of Jackson, Kentucky

(Official Notice Requested). If WJSN(FM) were to move about 8 miles in the direction of Campton and West Liberty, as proposed herein, and upgrade from a Class A to a Class C-2 facility, as proposed, herein, Station WJSN(FM) would be in a much superior position to take away listeners and advertising revenues from Stations WCBJ(FM) and WLKS AM/FM, which would cause economic injury to and otherwise adversely effect, those Stations. Therefore, Morgan County Industries, Inc. has standing [See Sanders Brothers Radio Station v. FCC, 309 U.S. 470 (1940) and NBC v. FCC (KOA), 76 U.S. App DC 238 (1942) aff'd 319 U.S. 239 (1943)].

WHEREFORE, the premises considered, the proposed allocation of Channel 247C2 to Jackson, Kentucky, and the modification of license of Station WJSN(FM) to operate on that Channel, as well as the allocation of Channel 293C3 to Salyersville, Kentucky, and the modification of license of Station WRLV-FM to operate on that Channel, must be denied.

Respectfully submitted,

Morgan County Industries, Inc.

By 
Leonard S. Joyce
Its Counsel

Law Offices of Leonard S. Joyce
5335 Wisconsin Avenue, N.W.
Suite 400
Washington, D.C. 20015-2003
202-364-6970
July 7, 2000

ENGINEERING STATEMENT
ON BEHALF OF
MORGAN COUNTY INDUSTRIES, INC.
CONCERNING
NOTICE OF PROPOSED RULE MAKING
TO AMEND THE TABLE OF ALLOTMENTS OF FM STATIONS
JACKSON AND SALYERSVILLE, KENTUCKY
MM DOCKET NO. 00-79, RM-9802
JULY 2000

COHEN, DIPPELL AND EVERIST, P.C.
CONSULTING ENGINEERS
RADIO AND TELEVISION
WASHINGTON, D.C.

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington)
) ss
District of Columbia)

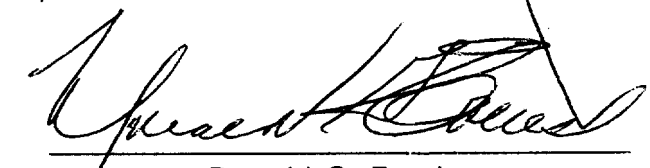
Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

That his qualifications are a matter of record in the Federal Communications Commission;

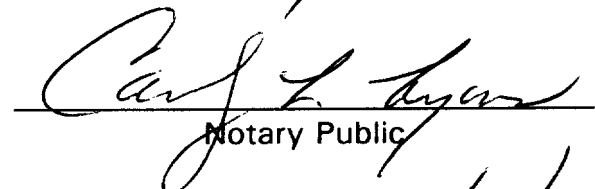
That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.



Donald G. Everist
District of Columbia
Professional Engineer
Registration No. 5714

Subscribed and sworn to before me this 6th day of July, 2000.



Notary Public

My Commission Expires: 2/28/2003

This engineering statement is prepared on behalf of Morgan County Industries, Inc., licensee of Broadcast Stations WLKS-AM and FM, West Liberty, Kentucky, and WCBJ(FM), Campton, Kentucky. This engineering statement has been prepared in response to the Notice of Proposed Rule Making entitled, "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Jackson and Salyersville, Kentucky)", MM Docket 00-79, RM-9802. The following engineering information will show that the transmitter site specified for WJSN(FM)¹ for Channel 247C2 fails to meet the requirements of FCC Rule 73.315, regarding transmitter location as it relates to the principal community since a substantial portion is shadowed.

The transmitter site specified for a Channel 247C2 operation because of its location and the assumed antenna height² that will achieve the maximum height above average terrain, fails to provide line-of-sight, i.e., shadowed to a substantial portion of the proposed community of license, Jackson, Kentucky. As demonstrated, many of the areas in the community will be subjected to multiple obstructions. Inspection of the propagation path reveals abrupt terrain, many peaks and valleys, much of the community of Jackson is located in a low land area. In fact, immediately located north of Jackson are prominent terrain obstructions which contributes to the shadowing to the community. Section 73.315(b) states in part that,

"The location of the antenna should be so chosen that line-of-sight can be obtained from the antenna over the principal city or cities to be served; in no event should there be a major

¹37°40'19" North Latitude and 83°24'21" West Longitude, See Footnote 4 of the Notice of Proposed Rule Making.

²An antenna radiation center of 467.3 meters AMSL is found to produce an effective height above average terrain of 150 meters.

obstruction in this path”.

The attached profile exhibits show that there are major obstructions over almost the entire path that leaves only a very small area of the community visible from the antenna radiation center.

- Through the Jackson reference coordinates (N 171.4°E)
 - Multiple terrain obstructions 50 meters to the near edge (Point A) of the community.
 - Multiple terrain obstructions up to 40 meters at Points B and C through community.
 - Slight terrain obstructions to the far edge (Point D) of the community.
- Through the east side of Jackson (N 166.5°E)
 - Multiple terrain obstructions with one prominent elevation having a terrain obstruction of over 100 meters to the near edge (Point A) of the community.
 - Multiple terrain obstructions at Point B and C through community with one prominent elevation having a terrain obstruction of over 100 meters.
 - One terrain obstruction of at least 70 meters to the edge of community.
 - No portion of community along this radial is non-shadowed.
- Through the west side of Jackson (N 173.7°E)
 - Two terrain obstructions to the nearest edge of the community (Point A) of at least 20 meters.
 - Two terrain obstructions at Points B and C through the community of about 20 meters with other terrain obstructions.
 - Multiple terrain obstructions to the farthest edge (Point D) of the community about 20 meters

Profile studies were made from the proposed Channel 247C2 transmitter site toward Jackson, Kentucky, at azimuth angles N 166.5° E, N 171.4° E, and N 173.7° E. The profile graphs (Figure 1, Figure 2, and Figure 3) show these areas will not enjoy line-of-sight. The profile graphs have been developed by utilizing a computerized 3-second data base augmented by using terrain data abstracted using the latest available USGS geological 7.5 minute maps.

Figure 4 provides a map showing the proposed Channel 247C2 transmitter site specified by the coordinates proposed in the Notice of Proposed Rule Making and the three radials through the community of Jackson, Kentucky.

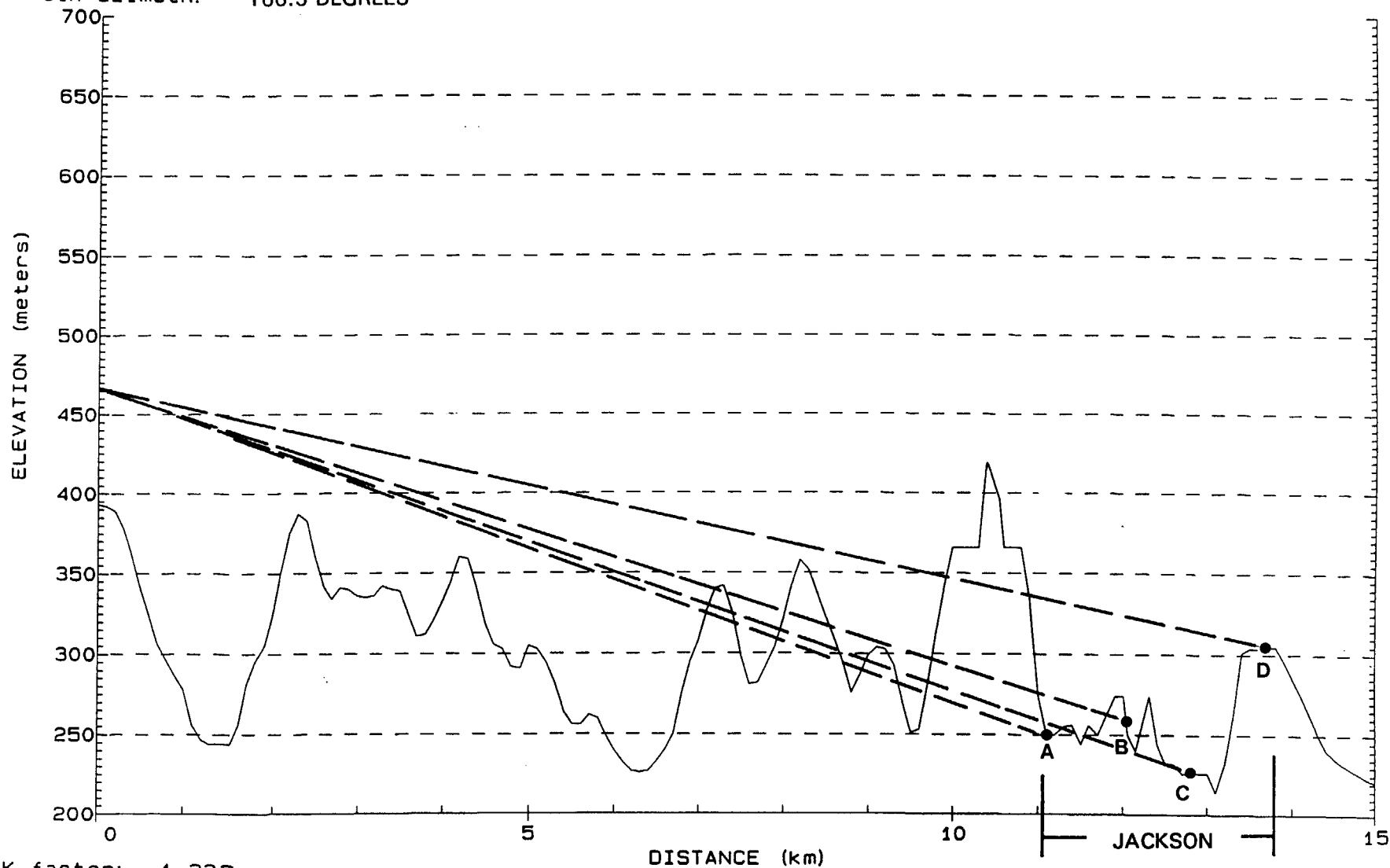
Utilizing these graphs, the attached map (Figure 5) was prepared showing the very minimal areas which are in line-of-sight, the remaining being completely hidden by intervening obstructions from the proposed antenna that achieves a height above average terrain of 150 meters.

Utilizing a polar planimeter in connection with the original map, it is found that 90% of the area is not in line-of-sight.

The severity of the obstructions and the resultant shadowing are demonstrated when an additional 100 meters (328 feet) increase of radiation center (567.3 meters) is assumed. Examination of the profile graphs find that extensive shadowing is still prevalent and continues to shadow over 75% of the community of Jackson.

Site: Allotment Site
N 37 40 19 W 83 24 21
Ant. Elev. (AMSL): 467.3 m
Path azimuth: 166.5 DEGREES

Site: JACKSON EAST
N 37 32 27 W 83 21 58



K factor: 1.333

3 Second Database - NAD 27
AUGMENTED BY
USGS 7.5 MINUTE
QUADRANGLE MAPS

COHEN, DIPPELL & EVERIST
Consulting Engineers
Washington, D.C.

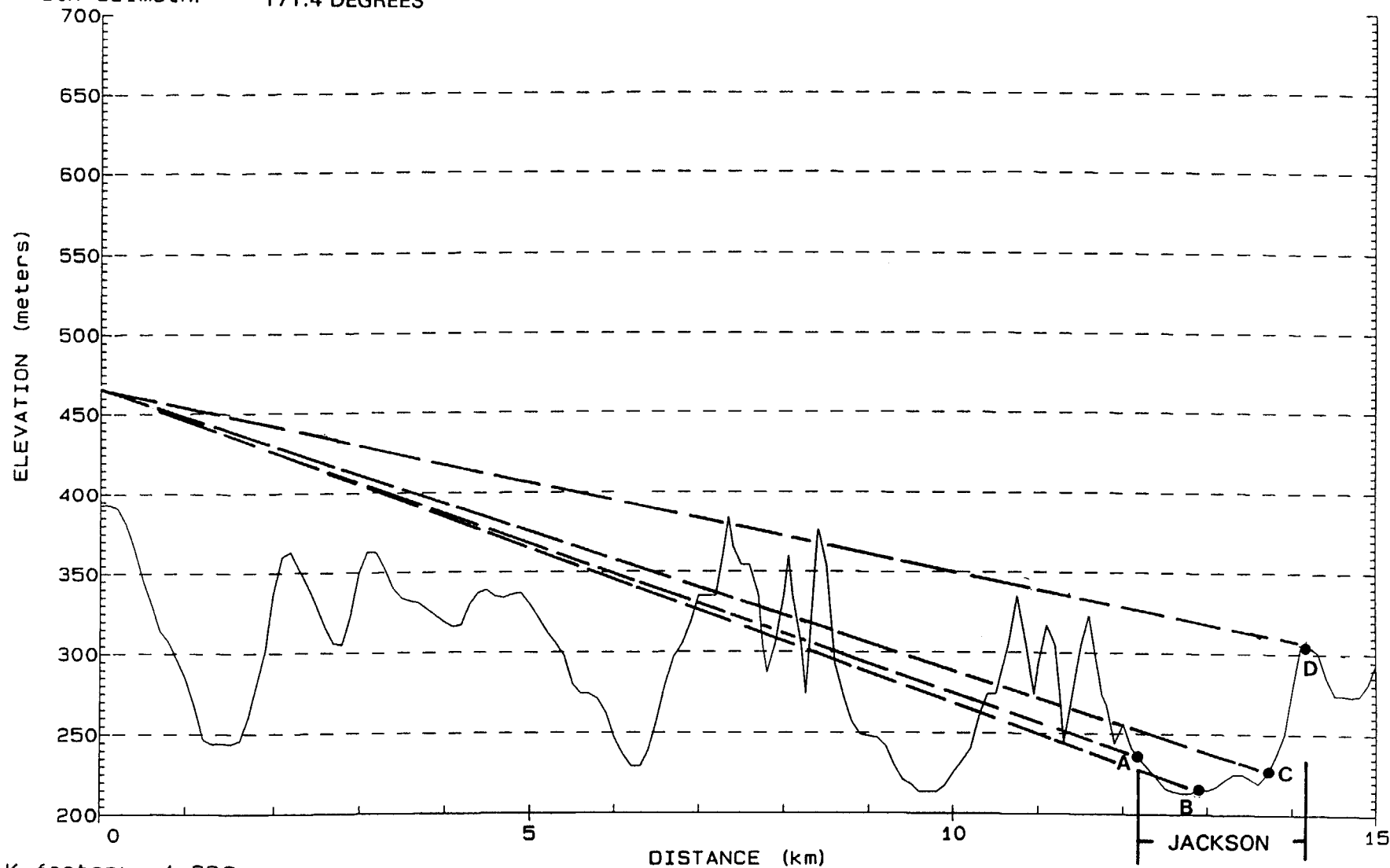
TERRAIN PROFILE

JULY 2000

EXHIBIT E-1

Site: Allotment Site
N 37 40 19 W 83 24 21
Ant. Elev. (AMSL): 467.3 m
Path azimuth: 171.4 DEGREES

Site: JACKSON, KENTUCKY
N 37 32 19 W 83 22 49



3 Second Database - NAD 27
AUGMENTED BY
USGS 7.5 MINUTE
QUADRANGLE MAPS

COHEN, DIPPELL & EVERIST
Consulting Engineers
Washington, D.C.

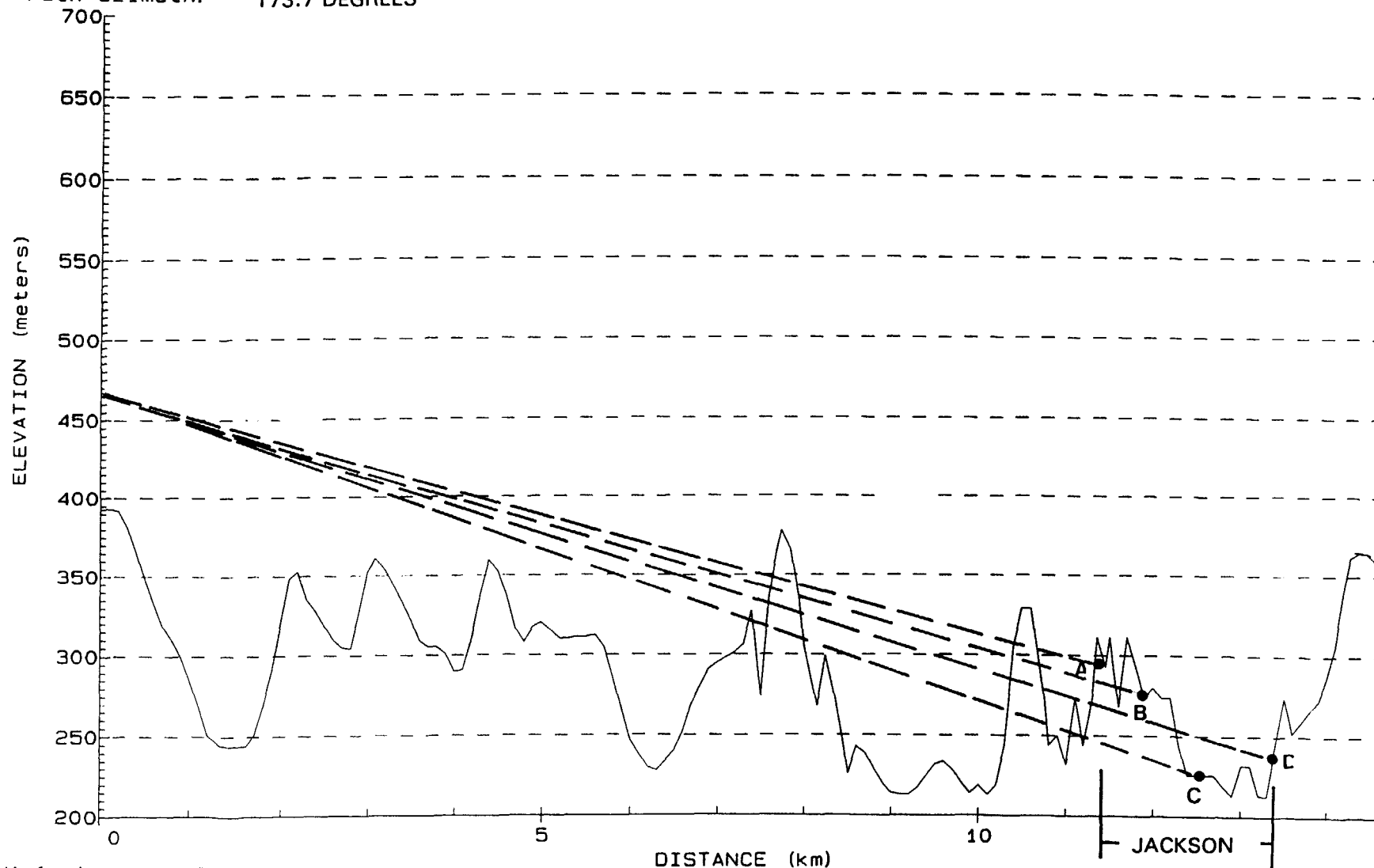
TERRAIN PROFILE

JULY 2000

EXHIBIT E-2

Site: Allotment Site
N 37 40 19 W 83 24 21
Ant. Elev. (AMSL): 467.3 m
Path azimuth: 173.7 DEGREES

Site: JACKSON WEST
N 37 32 28 W 83 23 15



K factor: 1.333

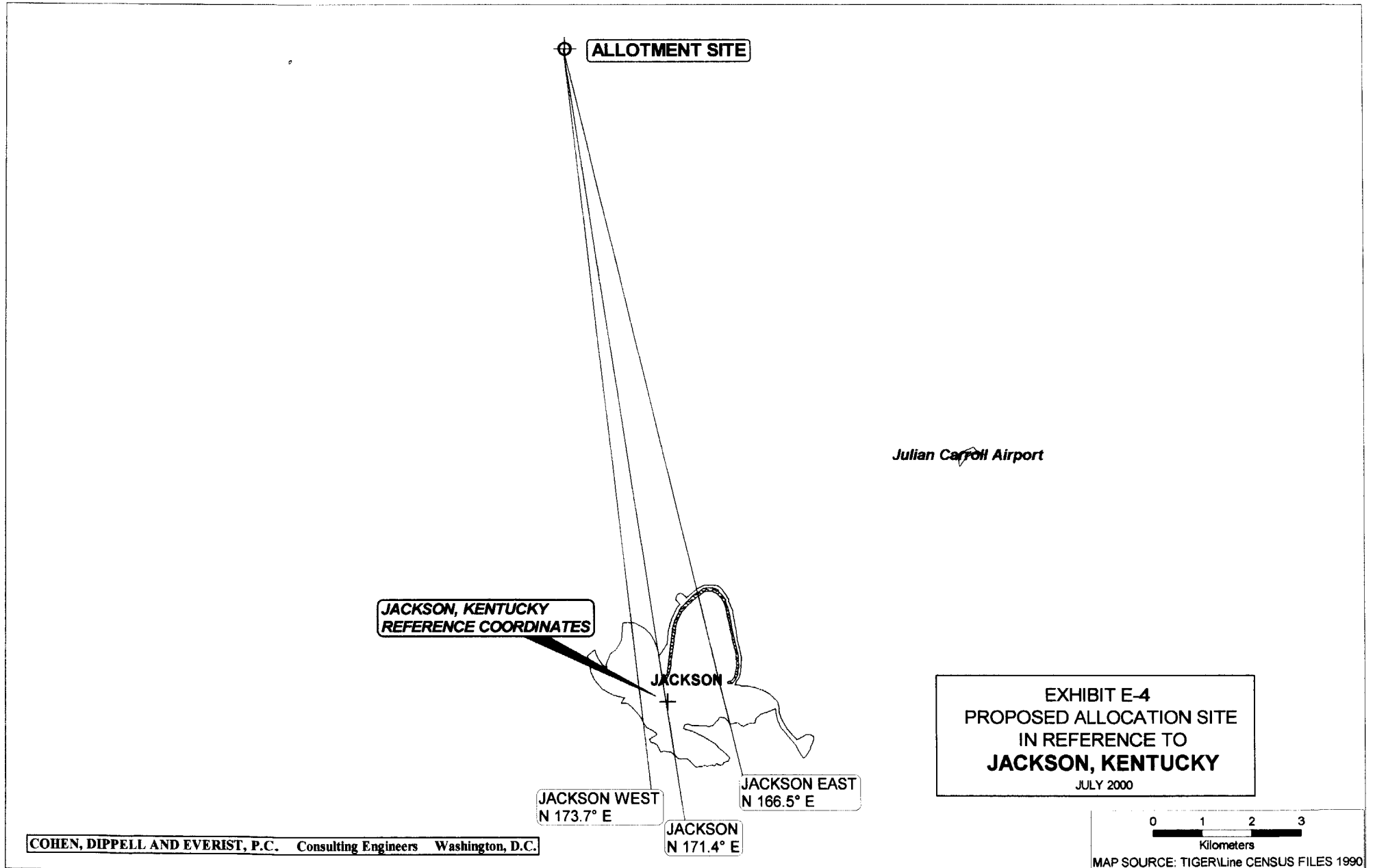
3 Second Database - NAD 27
AUGMENTED BY
USGS 7.5 MINUTE
QUADRANGLE MAPS

COHEN, DIPPELL & EVERIST
Consulting Engineers
Washington, D.C.

TERRAIN PROFILE

JULY 2000

EXHIBIT E-3



⊕ **ALLOTMENT SITE**

**JACKSON, KENTUCKY
REFERENCE COORDINATES**

**SHADOWED AREA IS
90% OF COMMUNITY**

**JACKSON WEST
N 173.7° E**

**JACKSON EAST
N 166.5° E**

**JACKSON
N 171.4° E**

**EXHIBIT E-5
PROPOSED ALLOCATION SITE
IN REFERENCE TO
JACKSON, KENTUCKY**

JULY 2000

COHEN, DIPPELL AND EVERIST, P.C. Consulting Engineers Washington, D.C.

0 1 2 3
Kilometers

MAP SOURCE: TIGERLine CENSUS FILES 1990

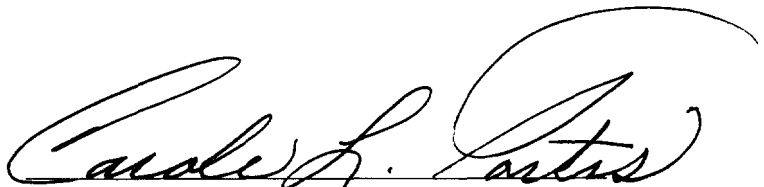
Certificate of Service

I Carole L. Portis, a secretary in the Law Offices of Leonard S. Joyce, do hereby certify that the foregoing Comments in Opposition To Proposed Rule Making was served this 7th day of July, 2000, by mailing true copies thereof, postage prepaid, to the following persons at the addresses listed below:

Chief, Allocations Branch
Policy and Rules Division of Mass Media Bureau
Federal Communication Commission
445 Twelfth Street S.W.
Washington, D.C. 20554

John F. Garziglia, Esq.
Pepper & Corazzini, L.L.P.
1776 K Street, N.W., Suite 200
Washington, D.C. 20006
(Counsel for Intermountain Broadcasting Company)

Mark N. Lipp, Esq.
Shook, Hardy & Bacon, L.L. P.
600 14th Street, N.W., Suite 800
Washington, D.C. 20005
(Counsel for Wallingford Broadcasting Company, Inc.)


Carole L. Portis